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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Washington 25, D. C.

April 1, 1954

HONEY DIVERSION PROGRAM VMD 66a (1954 Marketing Season)

Notice to Applicants:

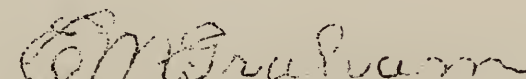
The Honey Diversion Program, as set forth in the attached document, is designed to encourage the use of honey in new outlets, and thus to expand the domestic consumption of honey. Packers and wholesalers of honey are urged to exert their efforts toward the development of new uses for honey and to apply to the Department for approval of each product or use as a diversion outlet.

Application forms (FV-457, Revised 3-15-54) are provided and are to be filed, in an original and two copies, for each intended diversion. (Application forms for previous diversion programs will not be acceptable.) Applications should be filed only when there is reasonable certainty that the volume set forth in the application will be diverted upon approval of the Department. Products which cannot be considered as strictly new uses as defined in the program will not be approved. A serial number will be assigned by the Department to each approved application, and this number will serve as the reference to be used in correspondence and in claims for payment.

Applicants who sell honey for diversion under this program are cautioned to make such sales subject to the condition that the Department of Agriculture will make a diversion payment on such honey. APPLICANTS ARE FURTHER CAUTIONED TO MAKE NO DELIVERIES OF HONEY FOR DIVERSION UNTIL THEY RECEIVE NOTIFICATION THAT THEIR APPLICATIONS HAVE BEEN APPROVED, and that the eligibility of the honey has been determined by the inspection required under the program. Each claim for payment shall show the gross sales price (the price prior to deducting the rate of payment), as well as the net price charged the diverter.

Diversion is defined in § 524.359 of the attached public offer. Applicants are cautioned that the sale of honey to a manufacturer for use in a product identical, or nearly identical, to that already being produced by other manufacturers and sold within the same markets, will not be approved. However, if the product is based on a formula which differs appreciably from existing formulas, so that honey is a significantly greater proportion of the total weight of the product, or of the sweetening agents, applicants are invited to present such new product for consideration as a diversion outlet. It is possible that ice cream, sirups, honey-fruit combinations, honey-dried milk combinations, soft drinks and other food, feed, or tobacco products, may be approved as diversion outlets. However, the listing of these possible diversion outlets is not to be construed as approval of any product which can be classified thereunder.

NO APPLICATION SHOULD BE SUBMITTED UNTIL THE APPLICANT HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS OF THE HONEY DIVERSION PROGRAM.



E. M. Graham, Chief
Specialty Crops Branch
Fruit and Vegetable Division

UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Washington 25, D. C.

TITLE 6 - AGRICULTURAL CREDIT

CHAPTER V - AGRICULTURAL MARKETING SERVICE
DEPARTMENT OF AGRICULTURE

SUBCHAPTER B - EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 524 - HONEY

SUBPART - HONEY DIVERSION PROGRAM V.D 66a
(1954 Marketing Season)

Section

- 524.345 General statement
- 524.346 Rate of payment
- 524.347 Eligibility for payment
- 524.348 Applications and approvals
- 524.349 Minimum grade and inspection
- 524.350 Period of diversion
- 524.351 Net price to diverter
- 524.352 Claims for payment supported by evidence of compliance
- 524.353 Records and accounts
- 524.354 Amendment and termination
- 524.355 Persons not eligible for payment
- 524.356 Set-off
- 524.357 Joint payee or assignment
- 524.358 Good faith
- 524.359 Definitions

AUTHORITY: §§ 524.345 to 524.359, inclusive, issued under Sec. 32, 49 Stat. 774, as amended; 7 U.S.C. 612c.

§ 524.345 General statement: In order to encourage the domestic consumption of honey produced in the continental United States by diverting it from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by Section 32 of Public Law 320, 74th Congress, as amended, offers to make payments to eligible persons complying with the terms and conditions hereinafter set forth.

Information pertaining to this program and forms prescribed for use may be obtained from the following:

Erwin M. Graham, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington 25, D. C.

Minard F. Miller, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, P. O. Box 19, Lakeland, Florida.

John W. Gannaway, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 549, New Custom House, Denver 2, Colorado.

Michael T. Coogan, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 1031 South Broadway, Room 1005, Los Angeles 15, California.

Werner Allmendinger, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 1000 Geary Street, San Francisco 9, California.

Robert H. Eaton, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Eastern Building, 515 S. W. 10th Avenue, Portland 5, Oregon.

§ 524.346 Rate of payment: The rate of payment applicable to honey of U. S. Grade C or better diverted in accordance with the terms and conditions of this program shall be 3.75 cents per pound.

§ 524.347 Eligibility for payment: Payments will be made to any individual, partnership, association, corporation or other legal entity located in and maintaining a business organization within the continental United States (1) who executes and files with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C. in triplicate an application on Form FV-457 (Revised March 15, 1954), "Application for Honey Diversion Program VMD 66a (1954 Marketing Season) and for Approval of Diversion Product," (2) whose application is approved by the Administrator, (3) who diverts honey produced in the continental United States or sells such honey for diversion into a product for which his application has been approved, and (4) who files claim as provided in § 524.352 and otherwise complies with all the terms and conditions of this program.

§ 524.348 Applications and approvals: Applications may be based (1) on intent of the applicant to divert, (2) on sales contracts, or (3) on sales negotiations. Applications will be considered for approval in the order submitted and in accordance with the availability of funds. Approval of applications based on sales negotiations shall be subject to the filing with the Administrator of a notification of completion of negotiations. If such notification is not filed within 30 days from date of approval of the application, the Administrator may cancel the approval. Such notification shall list the quantity and floral source of the honey to be diverted and any differences between the details in the approved application and those set forth in the sales contract. The Administrator

reserves the right to cancel the approval of any application based on sales negotiations, but notice of such cancellation must be mailed prior to the filing of notice of completion of the sales negotiations. An application based on a sales contract must be filed with the Administrator within seven days of the execution of the sales contract. Applications must be approved before diversion of the honey. If a sales contract with respect to which the Administrator has approved an application is modified in any respect, the applicant shall notify the Administrator promptly of such modification. The Administrator will give notice to the applicant of the approval or nonapproval of such modification.

§ 524.349 Minimum grade and inspection: Honey diverted under this program shall be equal to, or better than, U. S. Grade C of the "United States Standards for Grades of Extracted Honey," effective April 16, 1951. It shall have been inspected prior to diversion at either the applicant's or at the diverter's plant or warehouse. Such inspection shall be performed by an inspector of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture. The cost of the inspection and issuance of certificates shall be borne by the applicant.

§ 524.350 Period of diversion: No payment under this program will be made in connection with any honey diverted by the applicant or sold into an approved diversion outlet unless the diversion was accomplished by the applicant or the sales contract was entered into after the effective date hereof and prior to 12 o'clock midnight, e.s.t., March 31, 1955. Where diversion is by someone other than the applicant, the time for diversion shall extend to 12 o'clock midnight, e.s.t., April 30, 1955.

§ 524.351 Net price to diverter: The net price per unit of weight charged the diverter shall be established by deducting the rate of payment under this offer from the gross sales price of such unit of weight.

§ 524.352 Claims for payment supported by evidence of compliance:

(a) Applicants shall file claims for payment not later than May 31, 1955, with the Director, Cincinnati CSS Commodity Office, United States Department of Agriculture, 1010 Broadway, Cincinnati 2, Ohio. Each claim for payment shall be filed in an original and two copies on Form FDA-564 (Public Voucher - Diversion Programs) and shall show the number assigned by the United States Department of Agriculture on the related approved application, and shall be supported by:

(1) the original or a signed copy of the inspection certificate required in § 524.349;

(2) a certified statement by the applicant that the honey has

been diverted in the manner specified in his application and within the applicable period specified in § 524.350, or that the honey has been sold and delivered for diversion in accordance with the terms and conditions of this program, and that such honey was produced in the continental United States;

(3) where diverter is other than applicant, a signed or certified true copy of the sales contract;

(4) where diverter is other than applicant, a certification from the diverter of such honey that diversion has been accomplished and the manner and date of such diversion; and,

(5) such other documents as may be required by the Administrator as evidence of the diversion of the honey.

(b) Each sales contract shall show the date of sale, the price per unit of weight charged to the diverter, the quantity (net weight) of honey sold, and the floral source of such honey. If the price per unit of weight charged the diverter, shown in the sales contract, is on a basis other than delivered to diverter's plant or warehouse, the applicant shall certify on the copy of the sales contract that the delivered price is the equivalent of the price actually charged to the diverter.

§ 524.353 Records and accounts: Each applicant shall maintain accurate records with respect to the honey he diverts and sells for diversion. With respect to sales, such records shall show the quantities, sales prices, dates of delivery, and the dates of completion of diversion. Such records and accounts and other documents relating to any transaction in connection with this program shall be preserved until at least March 31, 1957, and shall be available as long as preserved, during regular business hours, for inspection and audit by authorized employees of the United States Department of Agriculture. Applicants who sell honey for diversion shall also obtain and furnish to the Administrator a statement signed by the person who diverts the honey (a) that he will keep records showing, in respect to each lot of honey received, the quantity, weight, date of receipt, price paid, date when diversion was completed, and manner of diversion; (b) that the records pertaining to such diversion shall be preserved until at least March 31, 1957; (c) that such records shall be available during regular business hours for inspection by authorized employees of the United States Department of Agriculture until at least March 31, 1957; and (d) that the diversion plant shall be available for inspection by such authorized employees.

§ 524.354 Amendment and termination: This program may be amended or terminated by the Administrator at any time by public announcement of such amendment or termination. No amendment or termination shall be applicable to any honey covered by an approved application.

§ 524.355 Persons not eligible for payment: No member of, or delegate to, Congress, or Resident Commissioner, shall be admitted to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be construed to extend to such a contract if made with a corporation for its general benefit, or to any such person acting in his capacity as a bee-keeper.

§ 524.356 Set-off: The Administrator may set off, against any amount owed to any applicant under this program, any amount owed by such applicant to the United States Department of Agriculture, Commodity Credit Corporation, or any other agency of the United States.

§ 524.357 Joint payee or assignment: The applicant may name a joint payee on vouchers or invoices for payment or may assign the proceeds of the approved application to a recognized financing institution as provided in this program. No assignment by the applicant shall be made of an approved application, or any rights thereunder, except that the applicant may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, as amended, (31 U.S.C. 203, 41 U.S.C. 15) the proceeds of the approved application, to a bank, trust company, Federal lending agency, or other recognized financing institution; Provided, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment, in accordance with the instructions on Form CSS-66, "Notice of Assignment," which form must be used in giving notice of assignment to the Administrator. The "Instrument of Assignment" may be executed on Form CSS-347 or the assignee may use his own form of assignment. The CSS forms may be obtained from the Administrator or the Cincinnati CSS Commodity Office.

§ 524.358 Good faith: If the Secretary determines that any applicant or diverter has not acted in good faith in connection with any transaction under this program or has failed to discharge fully any obligation assumed by him under this program, the applicant may be denied the right to continue participating in this program or the right to receive payment under this program in connection with any sale or diversion previously made under this program, or both.

§ 524.359 Definitions: As used in §§ 524.345 through 524.359, the following terms have the following meanings:

(a) "Administrator" means the Administrator, Agricultural Marketing Service, United States Department of Agriculture, Washington, D. C., or any person to whom the Administrator has subdelegated authority to perform, as Representative of the Secretary of Agriculture, the functions vested in the Administrator in this program.

(b) "Diversion" means the utilization of honey produced in the continental United States in the manufacture of a product approved by

the Administrator, by blending with one or more other commodities, by coating of a food, feed, or tobacco product, or by any other method approved by the Administrator, so as to preclude re-use or consumption of the honey as honey. Approval of diversion products shall be restricted to those (1) in which no honey has been utilized by any manufacturer since January 1, 1948, except pursuant to an approved diversion application under prior Section 32 programs, or (2) in which the use of honey has been negligible as to either the number of manufacturers or the percentage of the total sweetening agents employed in the product, or both.

(c) "Sales contract" means a contract for the sale of honey under which the applicant is clearly obligated to sell, and the diverter is clearly obligated to buy, a definite quantity of honey at a definite price. The contract shall consist of a written instrument signed by the applicant and the diverter, or a written offer and acceptance evidenced by an exchange of telegrams or letters. However, such a sales contract may be subject to the condition that a diversion payment under this program will be made in connection with such sale.

(d) "Applicant" is the individual, partnership, association, corporation or other legal entity which files a diversion application and receives approval of the Administrator pursuant to § 524.348 of this program. Only applicants are eligible to receive diversion payments.

(e) "Diverter" is the individual, partnership, association, corporation or other legal entity which performs diversion as defined in (b) above. Diverter and applicant may be one and the same.

(f) "Date of sale" means the date on which both applicant and diverter signed a sales contract, or the date of written acceptance of either a written offer or counter offer to buy or sell by which a sales contract is effectuated.

(g) "Filed." Applications, claims, and related documents are deemed to be filed when received by the appropriate USDA office.

(h) "Certified" or "Certification" means a written, signed declaration, contained in or attached to any document, stating that the document is a true and correct copy of the original of such document.

(i) "Public announcement" means the issuance of a USDA press release or the publication of a notice in the FEDERAL REGISTER.

Effective date: This program shall become effective at 12:01 a.m., e.s.t., April 1, 1954.

Note: The record-keeping and reporting requirements contained in this program have been approved by, and subsequent reporting requirements will be subject to, the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated this 30th day of March, 1954.

A handwritten signature in cursive script, appearing to read "S. A. Smith", written over a horizontal line.

Representative of the
Secretary of Agriculture

APPLICATION FOR HONEY DIVERSION PROGRAM VMD 66a (1954
Marketing Season) AND FOR APPROVAL OF DIVERSION PRODUCT

The undersigned hereby applies for payments to be made in accordance with the terms and conditions of the above-named program and for approval of the use of _____ pounds of (indicate predominant floral source or blend) _____ honey to be used, or to be sold for diversion as set forth below:

A. Applicant: (check one)

1. _____ is diverter.

2. _____ has a sales contract entered into on:

(date)

3. _____ has undertaken sales negotiation.

If Section 2 or 3 above checked, provide name and location of firm:

B. Honey to be used in (describe product in detail): _____

(If desired, additional details can be given on a separate sheet)
Agriculture-Washington

C. 1. To the best knowledge of the applicant, or based on information obtained from the above-named firm and other sources, (check one):

_____ honey has not been used in the manufacture of either the above or similar product since January 1, 1948, except pursuant to an approved diversion application under prior Section 32 programs.

_____ honey has been used in the manufacture of the above product since January 1, 1948.

_____ honey has been used in the manufacture of a similar product since January 1, 1948.

2. Honey will be (fill in the percentage):

_____ percent of the total sweetening agents in the product and

_____ percent of the total weight of the product. (If not applicable, submit instead the relationship of honey to principal ingredient or ingredients.)

3. Delivery of honey is expected to be completed by the _____ day of _____, 19__, and diversion is expected to be completed by the _____ day of _____, 19__.

If application is based on sales negotiations, applicant will notify Administrator, within 30 days from the approval date of this application, of the details of the firm sales contract. In the event the Administrator does not receive such notification by said 30th day, he may cancel the approval.

Date _____ Application No. _____

Name of Applicant _____

Address _____

By _____

Title _____

Approved this _____ day of _____, 19__.

USDA Serial Number _____

Representative of the Secretary
of Agriculture

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Name of Applicant _____

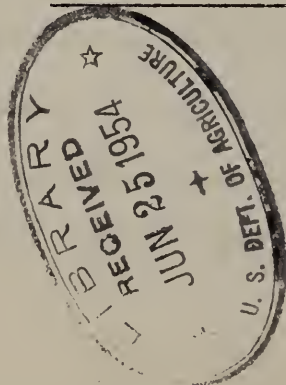
Address _____

By _____

Title _____

Approved this _____ day of _____, 19__.

USDA Serial Number _____



Representative of the Secretary
of Agriculture